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**Sent:** Mon 8/2/2010 6:51:49 PM  
**Subject:** #4 --- SPK Regulatory Information and Analyses Needed in the Public Draft EIS/EIR

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----- Forwarded by Karen Schwinn/R9/USEPA/US on 08/02/2010 11:47 AM -----

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**Date:** 08/26/2009 11:43 AM  
**Subject:** SPK Regulatory Information and Analyses Needed in the Public Draft EIS/EIR

The purpose of this email is to provide the Bay Delta Conservation Plan's (BDCP) BDCP Environmental Compliance Team (BECT) information, analyses, and processes which appear necessary to support the USACE permit decisions for those components of the BDCP for which the applicants are seeking permits and which constitute complete projects based upon my current understanding of the BDCP.

The USACE has jurisdiction over the BDCP under section 10 of the Rivers and Harbors Act of 1899 (section 10), section 14 of the Rivers and Harbors Act of 1899 (section 408, so called as it's also listed as 33 USC 408), and section 404 of the Clean Water Act (section 404).

The topics within this email are specific to section 10 and 404 permit decision needs.

The USACE is a cooperating agency under the National Environmental Policy Act for the Environmental Impact Statement/Environmental Impact Report (EIS/EIR) which is being prepared for the BDCP by the BECT. I am looking forward to working with the applicants to ensure the EIS/EIR prepared for the BDCP is adequate in both process and content to support the permit decisions of the USACE. I expect the topics discussed below will be further discussed at the next BECT meeting or another meeting to ensure the right information, analyses, and processes are incorporated into the EIS/EIR to support the permit decisions of the USACE. Without the right information, analyses, and processes incorporated into the EIS/EIR, additional NEPA processes and documentation would be necessary for completion of the permit decisions of the USACE.

Information and Analyses Needed in the Public Draft EIS/EIR

- 1) The EIS/EIR must clearly state the location(s) in the document for the analyses for each of the public interest factors listed in 33 CRF 320.4(a)(1).
- 2) A conceptual mitigation plan.

- 3) A description of the proposed operations of the CVP and SWP as a result of the BDCP. This would be in the form of a new Operations Criteria and Procedures (OCAP) or its equivalent for the combined operations of the CVP and SWP with the BDCP. If the applicants propose a phased implementation of operations, then an OCAP or its equivalent for the combined operations of the CVP and SWP with the BDCP should be prepared for each phase.
- 4) An analysis of the impacts resulting from changes from the regulatory baseline to water flows, depths, and quality from of the proposed structures and water project operations
- 5) An analysis of the impact of the BDCP on the spread of invasive aquatic plant species, including water hyacinth and *Egeria densa* will need to be completed. USACE has jurisdiction over navigation inhibiting aquatic plant species, including water hyacinth and *Egeria densa*, under section 10 of the Rivers and Harbors Act of 1899. USACE policy is to prevent or reduce spread of invasive species with civil works and regulatory actions. These aquatic plants block navigation, clog water diversions and deplete dissolved oxygen levels, and require herbicides which are harmful to protected fish species.
- 6) A jurisdictional determination for all areas proposed to be impacted.
- 7) An analysis of all the impacts to navigation due to structural and operational changes, and an analysis of the likely changes in the patterns of recreation and commercial navigation and associated secondary impacts. These last four points have been discussed internally at the USACE; but SPK Regulatory is uncertain as to their applicability. They are included here to help frame the conversations with the USACE section 408 POC and the applicants.
- 1) An analysis of effects of the proposed project related to system wide changes to the Sacramento River Flood Control Project as authorized in the Flood Control Act of 1917 and as amended. This shall specifically address potential changes to the 1957 Operations and Maintenance Manual (O&M manual) of the SRFCP.
- 2) A hydraulic analysis which evaluates the transfer of risk and system impacts through risk and uncertainty analysis.
- 3) An application from the Central Valley Flood Protection Board on behalf of the applicant for those for those components of the BDCP for which the applicants are seeking a section 408 permit.
- 4) 60% level designs for those for those components of the BDCP for which the applicants are seeking a section 408 permit.